REMARKS

I.   Amendment to the Claims

Thirty-one (31) claims are pending in the application, including the addition of three (3) new claims (Claim Nos. 47, 48 and 49 depending from Claim Nos.42, 1 and 36, respectively). Of the pending claims, four (4) claims are independent. The original filing for the pending application had thirty-five (35) claims in total with eight (8) claims being independent and some of these claims have been cancelled. Accordingly, no additional fee is required for the new claims that are being added. With regard to Claim No. 36, the applicant has incorporated the subject matter from its base independent claim, Claim No. 1, and transformed it into an independent claim.

II.   Allowable Subject Matter

The Examiner has concluded that Claim No. 12 is directed to allowable subject matter and would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. Claim No. 12 directly depends from Claim No. 1 without any intervening claim, and would be allowable in independent form by incorporating the limitations from this independent claim. Therefore, as the logical corollary to the Examiner's conclusion, applicant submits that Claim No. 1 has now been made allowable by including the subject matter from Claim No. 12 into its base independent claim.

The combination of this allowable subject matter with the subject matter of Claim No.1 does not limit the equivalents of any one of the elements in the combined claims. Therefore, the scope of the claim as amended is directed to any peer-to-peer messaging system which performs the combination of steps or their equivalents and regardless of the processes with which the arbiters are used or the order in which the steps are performed.

III. Claim Rejections under 35 U.S.C. § 102

The Examiner has rejected Claim Nos. 1-11, 13-14, 17 and 36-36 as being anticipated by U.S. Patent No. 5,748,618 (the "Rothrock" patent) under 35 U.S.C. §102(e). In support of this ground of rejection, the Examiner has concluded that Rothrock discloses all of the elements set forth in the claims and has cited to particular sections of the specification for the various claims. The applicant has fully evaluated the Rothrock reference and respectfully submits that it fails to teach the present invention as it is recited in the pending claims. The particular differences between the claimed elements and the Rothrock reference are discussed below with respect to each of the independent claims and a selection of dependent claims.

To establish anticipation of the present invention, Rothrock must disclose the invention as set forth in the claim: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. §2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As also set forth in M.P.E.P. §2131, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). For the reasons presented below, applicant respectfully submits that Rothrock fails to teach each element of the present invention.

A. Claim No. 1

As indicated above, the applicant has amended Claim No. 1 to incorporate the allowable subject matter from Claim No. 12. Therefore, the applicant submits that this claim as amended and its dependent claims are allowable over the prior art of record.

B. Claim Nos. 36, 38 & 44

With regard to Claim Nos. 36, 38 and 44, neither Rothrock nor any of the other cited references, either alone or in combination with each other, disclose or suggest the claimed

subject matter. The section of the Rothrock reference cited by the Examiner in rejecting each one of these claims (Column 4, lines 37-65) generally teaches sharing data between multiple nodes in a conferencing system but it does not contain any details on how the data is shared to the level of detail as recited in Claim Nos. 36, 38 and 44. When the entirety of the Rothrock reference is evaluated, particularly lines 8-40 Column 5, it becomes apparent that the Rothrock conferencing system fails to anticipate the claimed invention because Rothrock teaches that its messaging systems (such as video conferencing applications) should reside on each one of the nodes in the conference (computers), whereas the present invention claims that the messaging systems of the first operating system are not resident on the second operating system ("first text file drives the first process on a first computer having a first operating system and wherein said second process is on a second computer having a second operating system without messaging systems of said first operating system being resident on said second operating system").

The invention as recited in Claim Nos. 36, 38 and 44 requires a first text file that drives a first process on a first computer having a first operating system and a second process that is on a second computer having a second operating system. Additionally, the second computer has an operating system that is without the messaging systems of the first operating system being resident thereon. In comparison, Rothrock's conferencing system requires that each one of the computers in the conference ("nodes 110, 120, 130") run the applications ("application 201, such as a video conferencing application") which actually replicate the data that they all share (Column 5, lines 8-40). All of the computers (nodes) in the Rothrock conferencing system run applications which operate on the same data because the entire purpose of Rothrock is to share the data files amongst all of the nodes; specifically, all of the nodes in the Rothrock system are running video conferencing applications. According to the teaching of Rothrock, if a text file drives a process (such as some process in Rothrock's video conferencing application), the

messaging systems of the operating system should be resident on each one of the computers, but this is completely opposite to the requirements of the claimed invention which indicates that the messaging systems of the first operating system are not resident on the second operating system. Therefore, Rothrock fails to teach or suggest the inventive system as particularly recited in Claim Nos. 36, 38 and 44 (i.e., a text file that drives a process on a first computer having a first operating system where the messaging systems of the first operating system are not resident on the second operating system).

C.   *Claim Nos. 37, 42 & 47*

Claim No. 42 particularly specifies that the implementing and applying actions are performed by the arbiter independently from a central master control system. The Examiner has rejected this claim based on the Rothrock reference, citing the section from Column 3, line 63 through Column 4, line 23. However, when the entirety of the Rothrock reference is examined, it is clear that the actions of the arbiters in the Rothrock reference are dependent on a central master control system and do not act independently from a central master control system. Therefore, the Rothrock reference cannot anticipate, either by itself or in combination with another reference the invention recited in Claim No. 42 in which the arbiter performs the claimed actions "independently from a central master control system."

The Rothrock reference allows the arbiter roles to shift between the various nodes of the conferencing system but limits the arbiter role to be active for only one node at a time at any particular hierarchical level. This synchronization of the arbiters indicates that the arbiters in the Rothrock system must be dependent on a central master control system; otherwise, the arbiters could all be active together rather than only one node at a time. According to the Rothrock reference, the arbiter objects have an ID field that indicates which node has the active version of the current arbiter object, and only one arbiter can be active at a time in a particular hierarchy

level (Column 6, lines 2-14; Column 6, line 35 – Column 7, line 26; and Column 7, line 42 – Column 9, line 37). The invention of the Rothrock reference is the "multilevel arbitration" which "allows arbitrator roles to shift independently to other nodes, as needed during the conference." (Column 4, line 66 – Column 5, line 1). However, the Rothrock reference still uses a central master control system for its synchronization of the arbiters on the hierarchical level based on the similar technique taught in US Pat. No. 5,408,470, an earlier Rothrock reference that is expressly incorporated by reference into the Rothrock reference that is cited by the Examiner (Column 2, lines 40-58).

Since the arbiters in the present invention operate independently of a central master control system, there is no limitation on which arbiter is active. Therefore, the arbiters of the present invention can act asynchronously without having to wait for the active arbiter role to shift from node to node. Accordingly, Claim No. 47 further differentiates the present invention from the Rothrock reference because the claim indicates that the actions of one arbiter are performed in a manner that is asynchronous with the actions of another arbiter, whereas the Rothrock reference requires the actions of the arbiters to be performed in a synchronous manner. As recited in Column 7 of the Rothrock reference at lines 61-65, "there may be numerous arbiters at various locations within a data conference, however only one arbiter may have jurisdiction over operations in a given sub-tree of the object hierarchy at any one time in the conference."

Rothrock generally describes the conferencing system with reference to Figure 2 ("An application 201, such as a video conferencing application, runs on a plurality of nodes..." "Distributed data manager ("DDM") 222 provides the ability to ensure that data is replicated as required. Multilevel arbitration 226 provides a mechanism for more efficiently arbitrating during a data conference..." (Column 5, lines 8-23). Then, with reference to one particular hierarchical

level, the Rothrock reference specifically explains how the arbiters work with the distributed data manager (DDM) to operate on object stores and how the arbiter is "active only on one node of data conferencing system" and when a change is made to a conference object, the "DDM 301 ensures that each annotation is distributed to each user or node of the conference." (Column 5, line 62 – Column 6, line 14). Therefore, the arbiters in Rothrock operate in association with their respective applications (or processes) but they are doing so in a manner that is dependent on a central master control system. This dependent nature of the arbiters in Rothrock is what limits their activity to only one node at a time. The arbiters in the present invention are operating in association with their respective processes, but in comparison to the Rothrock system, they are doing so independently from a central master control system. This independent operation of the arbiters in the present invention allows them to be active on each of the nodes without the shifting of the active arbiter role. Accordingly, since the Rothrock reference uses arbiters which are dependent on a central master control system and the arbiters in the claimed invention operate "independently from a central master control system," applicant submits that Claim No. 42 is allowable over the Rothrock reference.

Claim No. 37 has been amended to particularly specify that the actions performed by the arbiter are done independently from a master control system. Accordingly, Claim No. 37 as amended should be allowed for the same reasons as Claim No. 42.

IV. *Conclusion*

Applicant respectfully submits that the independent claims are allowable over the prior art of record, including the cited references. For similar reasons, and for the additional reasons set forth above, Applicant urge that the dependent claims are also allowable.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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